

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

ROBERT KEITH ABEL.

Plaintiff,

v.

VAN A. HARP, *et al.*,

Defendants.

CASE NO. 1:02 CV 1752

JUDGE DONALD C. NUGENT

MEMORANDUM OPINION  
AND ORDER

This matter comes before the Court upon the Report and Recommendation of Magistrate Judge David S. Perelman. (ECF #68). In his Report and Recommendation, Magistrate Perelman set out the various factual representations of the parties as contained in their competing affidavits and concluded that a genuine question of material fact exists preventing entry of summary judgment. Magistrate Judge Perelman recommends that Defendants' Motion for Summary Judgment (ECF #55) be denied and that an Order setting a reasonable discovery period and trial date be issued.

Plaintiff and Defendants filed objections to the Magistrate Judge's Report and Recommendation. The Court has reviewed *de novo* those portions of the Magistrate Judge's Report and Recommendation to which objection has been made. *See* FED. R. CIV. P. 72(b). Magistrate Judge Perelman's Report and Recommendation is well-supported and correct. A genuine issue of material fact exists and a fact finder must decide which version of events is credible.

Accordingly, the Report and Recommendation (ECF #68) is ADOPTED in its entirety and Defendants' Motion for Summary Judgment (ECF #55) is DENIED. The parties may engage in

discovery from the date of this Opinion through November 3, 2006. The case will return to Magistrate Judge Perelman for continued pretrial supervision. Trial is set for November 8, 2006 at 8:30 a.m. before this Court in Courtroom 15A.

IT IS SO ORDERED.

  
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DONALD C. NUGENT  
United States District Judge

DATED: September 8, 2006